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OFFICE OF PETITIONS

In re Application of
Frisco et al.
Application No. 09/966,710
Filed: September 28, 2001
Attorney Docket No. 38949/247779

**DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)**

This is in response to the "Letters of Administration" filed August 13, 2002 (certificate of mailing date August 7, 2002) which is being treated as a petition under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on September 28, 2001, without a properly executed oath or declaration. Accordingly, on June 7, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of August 7, 2002.

In reply, applicant filed a copy of "Letters of Administration".

a grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2). A petition fee of \$130.00 has been charged to deposit account 11-0855.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.64. Although rule 47 applicant submitted "Letters of Administration" appointing Jeffrey Joseph Shue as the administrator of the deceased inventor, the declaration does not

meet the requirements of 37 CFR 1.64 (b). On renewed petition, petitioner should state the relationship of the person to the deceased inventor. The oath or declaration should also state Jeffrey Joseph Shue is the legal representative and provide the citizenship, residence and mailing address of the legal representative.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for J. Wood
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